

<http://www.latimes.com/business/la-fi-trust29mar29,1,5889010.story?coll=la-headlines-business&ctrack=1&cset=true>

Northern Trust to Pay \$21 Million to Settle Claims of Excessive Charges

Beneficiaries of trust accounts are expected to receive about \$12,300 each on average.

By E. Scott Reckard
Times Staff Writer

March 29, 2005

Northern Trust Bank of California has agreed to pay \$21 million to settle a lawsuit alleging that it charged excessive management fees to 1,300 individuals, charities and others with trust accounts.

The bank's parent, **Northern Trust Corp.** of Chicago, didn't admit wrongdoing, saying it had acted in good faith and settled to avoid costly litigation. The settlement was approved late Friday by Los Angeles County Superior Court Judge Anthony J. Mohr.

As a trustee, the bank held and managed investments on behalf of beneficiaries. It collected fees based on a percentage of the assets under management in the 300 trusts at issue in the lawsuit.

Derek G. Howard of Oakland, an attorney for the beneficiaries, said Monday that the trusts generally were supposed to be charged annual fees of less than 1% of trust assets. Instead, he said, the fees were gradually ratcheted up to the going rate for the industry, currently about 1.4% a year.

The amount of alleged overcharges varied, but trust beneficiaries are expected to receive settlements averaging about \$12,300 each.

One plaintiff, Kimball Wheeler of West Los Angeles, said that for decades her grandmother had depended on income from a trust set up by her grandfather, who died in the 1960s. The income stopped two years before her grandmother died in 1999 at 103, she said.

"We didn't question it," said Wheeler, a well-known operatic singer. "It seemed logical that with her living as long as she did it had just run out."

She says she now believes the payments might have gone on to the end of her grandmother's life had not the trustees gradually raised their fees above 1%. The contract had limited those management fees to 0.6% a year on some investments, and 0.75% a year on others, she said.

Many of the trusts were set up similarly, decades ago, as "modest nest eggs" for charities and individuals, Howard said.

"We're not talking about people driving Rolls Royces here," Howard said. "People like Kim's grandmother were relying on these nest eggs for their everyday needs."

At least two other big banks have faced similar allegations since the early 1990s. **Bank of America** Corp. agreed to pay \$111 million and **Wells Fargo & Co.** \$35 million to settle lawsuits over trustee charges; neither admitted wrongdoing.

Northern Trust acquired nearly all of the 300 trust accounts in 1992 from Trust Services of America Inc., a subsidiary of California Federal Bank. The overcharges on these accounts began in 1981 and continued until 2003, according to the lawsuit, which said Northern Trust knew about Trust Services' overcharges but neglected to rectify them.

Northern Trust previously had offered to refund extra fees charged to the trust customers beginning in 1994 — an offer accepted by the beneficiaries of 79 of the trusts, according to the settlement documents. In its final settlement, the bank agreed that those beneficiaries, like the others, also would receive refunds all the way back to 1981.

The plaintiff attorneys will receive \$5 million of the settlement and the trust beneficiaries \$16 million, the judge decided.

Niall J. McCarthy of Burlingame, Calif., another attorney for the plaintiffs, said the banks failed to spell out clearly to their customers that under the original terms of the trusts, the fee caps could only be lifted by obtaining a court order.

When Northern Trust became aware that the trusts it obtained from TSA had been charged too much, it sent out letters to clients that "didn't state that the increases clearly violated the terms of the trust," he said.

One recipient of such a letter was Wheeler, whom the Washington Post once called an "exceptionally powerful and sometimes pugnacious" mezzo-soprano.

She said she "smelled a rat" when Northern Trust wrote her a year and a half ago saying it had discovered overcharges to her grandmother's account and would send her and four other heirs a total of about \$13,000.

She said she refused to cash her check and wound up joining the suit as a named plaintiff. The settlement will provide her family nearly twice the \$13,000 that Northern Trust initially offered, Howard said, and she will receive an additional \$15,000 for being a lead plaintiff.

If you want other stories on this topic, search the Archives at latimes.com/archives.

TMSReprints

Article licensing and reprint options

Copyright 2005 Los Angeles Times